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IN THE

Supreme Court of the United States

OCTOBER TERM, 1963

No. [redacted] 118

ERNST JOHAN JENS HENRIKSEN and W. A. SHEAFFER PEN COMPANY, *Petitioners*

v.

CORY CORPORATION, *Respondent*

PETITIONER'S REPLY BRIEF

FRED T. WILLIAMS
77 W. Washington Street
Chicago, Illinois 60602

PHILIP W. AMRAM
Washington Building
Washington, D. C. 20005

Attorneys for Petitioner

Of Counsel:

JAMES R. DOWDALL
THOMAS E. SMITH
PENDLETON, NEUMAN, SEIBOLD & WILLIAMS
77 W. Washington Street
Chicago, Illinois 60602

AMRAM, HAHN & SUNDLUN
Washington Building
Washington, D. C. 20005

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PETITIONER'S REPLY BRIEF

Under no circumstances do Petitioners seek certiorari here in order to have "another hearing on the merits of their case". (Resp. Brief page 7).

To the contrary, the Petition raises three questions only: (1) the constitutionality of Patent Office Rule 41, the sole foundation for the alleged file-wrapper estoppel (Pet. pages 14-7, 27-30); (2) the power and competence of any court to overrule an agreement between an applicant and the Patent Office as to the meaning of the technical terms of art used in a patent application (Pet. pages 23-5); (3) the constitutionality and validity of the novel theory of file-wrapper estoppel invoked *sua sponte* by the Court of Appeals, which

strikes at the heart of the patent system. (Pet. pages 13-4, 17-23, 26-30)

Respondent's Brief is conspicuously silent on all three of these issues. It seeks to "restate" the facts (Resp. Brief pages 2 to 6) in an unsuccessful effort to exclude the questions posed by the Petition. It asserts baldly that the Court of Appeals was correct on file-wrapper estoppel. It gives this Court no assistance on the only questions raised in the Petition.

Respectfully submitted,

FRED T. WILLIAMS
77 W. Washington Street
Chicago, Illinois 60602

PHILIP W. AMRAM
Washington Building
Washington, D. C. 20005

Attorneys for Petitioner

Of Counsel:

JAMES R. DOWDALL
THOMAS E. SMITH
PENDLETON, NEUMAN, SEIBOLD & WILLIAMS
77 W. Washington Street
Chicago, Illinois 60602

AMRAM, HAHN & SUNDLUN
Washington Building
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